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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/086,354

02/28/2002

Mark Nelson Robins

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09/19/2005

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EXAMINER

TESLOVICH, TAMARA

ART UNIT

PAPER NUMBER

2137

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/086,354

Applicant(s)

ROBINS ET AL.

Examiner

Tamara Teslovich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

This action is in response to the Application filed February 28, 2002.

Claims 1-36 are considered below.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9, 17, 19 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitation "the system of claim 1, wherein the *time adjuster*" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "the digital camera" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 19 recites the limitation "the digital camera" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 28 recites the limitation "the system of claim 24, wherein the *time adjuster*" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 17-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A computer program is not statutory subject matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-16, 21, 22, and 24-36 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,937,068 by Yves Audebert, hereinafter referred to as Audebert.

As per claim 1, Audebert discloses a system for preventing unauthorized use of an electronic device (second unit) comprising a security file corresponding to a predefined security code (password) residing in memory of the electronic

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device (abstract); a card key (first unit), the card key corresponding to the predefined security code (col.4); a processor configured to compare the card key with the security file, and further configured to enable use of the electronic device only if the security file corresponds to the card key (abstract; col.4 lines 60-67); and a security timer configured to time a period of time such that the processor compares the card key with the security file after the time period has elapsed (col.3 lines 43-52).

As per claim 2, Audebert discloses wherein the card key resides in a portable memory module configured to couple to the electronic device and further configured to communicate the card key to the processor (col.7 lines 46-56; col.8 lines 2-6).

As per claim 3, Audebert discloses wherein the card key is a backup card key and resides in second memory, the second memory residing in a computer such that the card key is communicated from the second memory to the processor (col.14 lines 20-24).

As per claim 4, Audebert discloses wherein the electronic device comprises at least one selected from a group consisting of a digital camera, a personal computer, a laptop computer and a personal digital assistant (col.12 lines 20-27; col.14 lines 37-42).

As per claim 5, Audebert discloses a means for prompting users to communicate the card key to the electronic device (col.7 line 65 thru col.8 line 6).

As per claim 6, Audebert discloses wherein the security timer is a hardware component coupled to the processor and configured to communicate a

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signal to the processor indicating that the time period has elapsed (col.14 lines 14-36).

As per claim 7, Audebert discloses a unit of memory configured to store the security time as logic such that the processor executes the security timer logic to time the time period (col.14 lines 14-36).

As per claim 8, Audebert discloses a timer adjuster configured to adjust the time period of time timed by the security timer (col.3 line 30 thru col.4 line 7).

As per claim 9, Audebert discloses wherein the timer adjuster is at least one selected from a group consisting of at least one touch-sensitive button, at least one pushbutton, a touch pad display and a menu displayed on a display (col.3 line 30 thru col.4 line 7; col.7 line 65 thru col.8 line 6).

Claim 10 is directed towards the method of claim 1 and is rejected by similar rationale.

As per claim 11, Audebert discloses the step of disabling the electronic device when the card key does not correspond to the security key (col.8 lines 45-48).

Claims 12 and 13 are directed towards the method of claims 4 and 5 and are rejected by similar rationale.

Claim 14 is directed towards the method of claim 1 and is rejected by similar rationale.

Claim 15 is directed towards the method of claim 7 and is rejected by similar rationale.

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Claim 16 is directed towards the method of claim 8 and is rejected by similar rationale.

Claim 21 and 22 are directed towards the system of claim 2 and are rejected by similar rationale.

Claim 24 is directed towards the system of claim 1 and is rejected by similar rationale.

Claims 25-28 are directed towards the systems of claims 6-9 and are rejected by similar rationale.

Claim 29 is directed towards the method of the system of claim 2 and is rejected by similar rationale.

As per claim 30, Audebert discloses the step of disabling the electronic device when the card key does not correspond to the security key (col.8 lines 45-48).

Claim 31 is directed towards the method of the system of claim 4 and is rejected by similar rationale.

Claims 32 and 33 are directed towards the method of the system of claim 1 and are rejected by similar rationale.

Claim 34 is directed towards the method of the system of claim 7 and is rejected by similar rationale.

Claim 35 is directed towards the method of the system of claim 8 and is rejected by similar rationale.

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Claim 36 is directed towards the method of the system of claim 5 and is rejected by similar rationale.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,937,068 by Yves Audebert as applied to claims 1-16, 21, 22, and 24-36 above, and further in view of US Patent No. 6,044,349 by Tolopka et al.

Claim 23 refers to the system of claim 22, wherein the additional information residing in the portable memory module is information corresponding to a captured image.

Audebert refers only to the system of claim 22, wherein the additional information residing in the portable memory module is information corresponding to data representing an account balance or an account number and so on (col.11 lines 53-56) and fails to mention wherein the information corresponds to a captured image.

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Tolopka describes a secure and convenient information storage and retrieval method and apparatus comprising a portable storage medium, also referred to as a smart card, used to store data and provide access to information from an information dissemination system (Abstract). The smart card contains predefined security codes including but not limited to personal identification numbers and biometric codes which are used to authorize the holder of the card for transactions with electronic devices and such (col.3 lines 36-54). The card can also be configured to store other selected information (col.6 lines 29-35), including information corresponding to captured images such as that of the owner of the card (col.3 lines 55-65). The card also contains an adjustable timer used to limit access times (col.5 lines 38-54).

It would have been obvious to a person of average skill in the area at the time of the invention to include within Audebert's smart card the information corresponding to captured images as described in Tolopka to provide a secondary means of authentication.

Conclusion

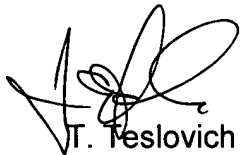
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara Teslovich whose telephone number is (571) 272-4241. The examiner can normally be reached on Mon-Fri 8-4:30.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



T. Teslovich
September 1, 2005



MATTHEW SMITHERS
PRIMARY EXAMINER
Art Unit 2137